United Nations CRPD/C/ZAF/CO/1

Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of South Africa*

I. Introduction

1. The Committee considered the initial report of South Africa (CRPD/C/ZAF/1 and Corr.1) at its 399th and 400th meetings (see CRPD/C/SR.399 and 400), held on 28 and 29 August 2018. It adopted the present concluding observations at its 413th meeting, held on 7 September 2018.

2. The Committee welcomes the initial report of South Africa, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for its written replies (CRPD/C/ZAF/Q/1/Add.1) to the list of issues prepared by the Committee (CRPD/C/ZAF/Q/1).

II. Positive aspects

3. The Committee commends the State party:

(a) On the launch of a deaf access facility and Skype functionality, allowing for video calls to the national Gender-based Violence Command Call Centre;

(b) On the prompt and comprehensive response to the Gauteng Mental Health Marathon Project case, which had resulted in the deaths of more than 140 persons with psychosocial disabilities, by starting investigations and arbitration procedures, thus establishing an example of good practice for other countries facing similar situations;

(c) For making the decision to undertake an audit of its laws and policies to bring them into line with the human rights model of disability, including the comprehensive White Paper on the Rights of Persons with Disabilities of 2015, which aims to accelerate change and redress with regard to the full inclusion, integration and equality of persons with disabilities;

(d) For initiating a process to develop a suite of universal design standards across the transport system to help implement the requirements of the National Land Transport Act (2009).

* Adopted by the Committee at its twentieth session (27 August–21 September 2018).

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III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

4. The Committee notes with concern that the concept and assessment procedures of disability in some national laws still reflect the medical model of disability, particularly in the education system and, specifically, in the guidelines on the licensing of residential and/or day-care facilities for persons with mental illness and/or severe and profound intellectual disabilities.

5. **The Committee recommends that the State party harmonize and align the concept of disability in all laws and policies to bring them into line with the human rights model of disability in the Convention. In particular, it is recommended that persons with disabilities, through their representative organizations, are involved in the design of disability assessments and that multiple assessments are eliminated, which should reduce the burden on applicants, and promote consistency and transparency in such assessments.**

6. The Committee is concerned about the absence of meaningful consultation and effective participation mechanisms to ensure that the views, opinions and concerns of persons with disabilities, particularly young persons, are included in policy formulation, including decision-making processes, by public authorities both at the national and local levels.

7. **The Committee recalls its general comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention and recommends that the State party:**

(a) **Establish formal mechanisms to ensure effective and meaningful participation and consultation with persons with disabilities, particularly young persons, through their representative organizations, including their participation in the implementation of the Convention. The Committee also recommends that the State party provide sufficient budgetary resources to such organizations;**

(b) **Provide regular training to all public officials involved in the consultation process on non-discrimination, dignity and respect, as well as the right to reasonable accommodation of persons with disabilities, focusing on the human rights model of disability.**

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

8. The Committee notes with concern that:

(a) An understanding of the concept of reasonable accommodation is limited among public authorities and the society at large and is therefore not adequately applied to persons with disabilities, especially persons with psychosocial or intellectual disabilities, as well as persons with albinism;

(b) Discrimination remains widespread, especially against persons with psychosocial or intellectual disabilities and persons with albinism, including persons in rural areas with disabilities;

(c) The lack of specific legislation protecting persons with disabilities against multiple and intersectional discrimination;

(d) The slow pace in promulgating chapter 5 of the Promotion of Equality and Prevention of Unfair Discrimination Act, which imposes obligations on all members of society to promote equality, including the private sector;

(e) The absence of information on the legal remedies and measures of redress and compensation for persons with disabilities subjected to discrimination and statistics on the number of investigations conducted, sanctions imposed and remedies provided to victims, particularly women and girls with disabilities.

9. **The Committee recommends that the State party:**

(a) **Take concrete measures to promote awareness about the concept of reasonable accommodation among the general public and the private sector, and ensure its application at all levels of government;**

(b) **Adopt effective legislation and policies that will explicitly provide protection against multiple and intersectional forms of discrimination;**

(c) **Establish effective mechanisms for persons with disabilities exposed to discrimination to obtain redress, including compensation, rehabilitation and sanctions against the perpetrators;**

(d) **Set up an integrated system to collect data on complaints submitted by persons with disabilities, disaggregated by sex, age and disability type across all sectors, including information in accessible formats about the legal remedies and measures of redress and compensation provided for persons with disabilities who have faced disability-based discrimination.**

Women with disabilities (art. 6)

10. The Committee is concerned about:

(a) The multiple forms of discrimination faced by women and girls with disabilities in obtaining access to education, employment and health care and their exclusion from public and social life;

(b) The lack of legislation and policies, including measures of affirmative action, aimed at addressing multiple and intersecting forms of discrimination against women and girls with disabilities, particularly against black women and girls with disabilities, including discrimination arising from traditional and cultural practices; and the limited opportunities for women with disabilities, particularly black women with disabilities, to be systematically involved in decisions that concern them directly;

(c) The absence of measures to prevent and combat discrimination and violence, including rape and other forms of gender-based sexual violence, exploitation and abuse against women and girls with disabilities, and the lack of information in accessible formats for health, psychosocial and legal services for victims of violence and abuse or those who are at such risk.

11. **The Committee recommends that the State party take note of general comment No. 3 (2016) on women and girls with disabilities in its implementation of Goal 5 of the Sustainable Development Goals and:**

(a) **Adopt as a matter of priority measures to prevent and combat discrimination, violence and abuse against women and girls with disabilities and enact legislation and adopt effective strategies to that effect, and ensure that information in accessible formats is available for victims to gain access to health, psychosocial and legal services;**

(b) **Develop and adopt affirmative action measures aimed at the empowerment and full inclusion of women and girls with disabilities in all spheres of life geared towards addressing multiple and intersecting forms of discrimination against black women and girls with disabilities, and raise awareness about all forms of discrimination arising from traditional and cultural practices.**

Children with disabilities (art. 7)

12. The Committee is concerned about:

(a) The lack of legislation to give full effect to the right to inclusive education for all children with disabilities, in line with general comment No. 4 (2016) on the right to inclusive education, and as outlined in the recommendations of the Committee on the Rights of the Child (CRC/C/ZAF/CO/2, paras. 43–45);

(b) The high number of reported cases of corporal punishment, violence, abuse, neglect and inequality involving children with disabilities, especially children with autism and children with psychosocial or intellectual disabilities, by teachers and peers. The Committee is further concerned about the reported cases of abuse of children with disabilities at schools and school hostels, with teachers allegedly being the perpetrators in most cases;

(c) The large number of children with disabilities, nearly 600,000, who are out of school or studying in specialized schools or classes, in particular children with psychosocial disabilities, and children with disabilities placed in centres for children or less regulated special service centres, all of which are based on long-term institutionalization, often located far from their families and communities, isolated and lacking properly trained staff.

13. **The Committee recommends that the State party:**

(a) **In line with target 16.2 of the Sustainable Development Goals, develop, adopt and implement legislation and concrete measures to ensure that children with disabilities, including children with autism, albinism or psychosocial or intellectual disabilities, are adequately protected from violence and abuse, including corporal punishment, and that sanctions are imposed against perpetrators; and that the Children's Act is amended without delay to explicitly prohibit all forms of corporal punishment in all settings;**

(b) **Enact legislation giving full effect to the right to inclusive education for all children with disabilities, as outlined in the recommendations of the Committee on the Rights of the Child (CRC/C/ZAF/CO/2, paras. 43–45), review the Education White Paper 6 — Special Needs Education: Building an Inclusive Education and Training System (2001) with a view to further developing a legal and policy framework for inclusive education, and the inclusion of children with disabilities into mainstream schools;**

(c) **Adopt a time-bound plan of action to address the high levels of physical, sexual, verbal and emotional abuse in special education schools, including special education school hostels. This plan must include a monitoring framework and process with a comprehensive vetting procedure, including for criminal records, for all teachers and officials working with children before recruitment, and ensure that the National Register for Sex Offenders and National Child Protection Register be adequately maintained;**

(d) **Develop and adopt effective implementation plans for prevention and early intervention programmes in communities to enable early identification of and support for children and adults with disabilities in family and community settings with adequate budget allocations, including training and continuous professional development of care workers and parents of children with disabilities, increased public awareness-raising programmes to understand the importance of family and community-based provisions instead of institutionalization.**

Awareness-raising (art. 8)

14. The Committee notes with concern:

(a) The lack of a coherent and comprehensive national strategy to raise awareness among the public and private media about the ongoing stigmatization and marginalization of, and prejudices and stereotypes about, persons with disabilities, particularly persons with albinism or psychosocial or intellectual disabilities, even within family settings;

(b) The non-inclusion of persons with disabilities and their representative organizations in awareness-raising campaigns and programmes, including in the planning and implementation of such campaigns and programmes.

15. **The Committee recommends that the State party:**

(a) **Develop a coherent and comprehensive national strategy to raise awareness in society and the media about the negative effects of stigmatization of, and the prejudices and stereotypes about, persons with disabilities, particularly persons with albinism or psychosocial or intellectual disabilities;**

(b) **Undertake public awareness-raising campaigns, including human rights education programmes, in partnership with community, traditional and religious leaders, as well as media professionals, to combat the stigmatization of and prejudices against persons with disabilities, including persons with albinism, aimed at reaffirming the value and dignity of such persons, in particular children with disabilities, and persons with psychosocial or intellectual disabilities;**

(c) **Adopt effective mechanisms for the inclusion and participation of persons with disabilities, through their representative organizations, especially in rural communities, in the design, implementation and evaluation of awareness-raising campaigns and training programmes in conformity with the principles of the Convention.**

Accessibility (art. 9)

16. The Committee notes with concern:

(a) The absence of laws enabling accessibility for persons with disabilities, and their inclusion, participation and meaningful consultation, through their representative organizations, in developing and monitoring an accessibility plan;

(b) The absence of a clear unified national strategy on accessibility for persons with disabilities, providing for such accessible facilities at banks, including online banking platforms for persons with disabilities, particularly those with sensory impairments and psychosocial or intellectual disabilities, and public transport in rural areas.

17. **The Committee recommends that the State party, in line with general comment No. 2 (2014) on accessibility:**

(a) **Adopt and implement legislation, a national strategy and policies on accessibility and services for persons with disabilities, paying particular attention to persons with sensory impairments and persons with psychosocial or intellectual disabilities, allocate sufficient resources, provide effective sanctions for non-compliance and introduce accessibility criteria in public procurement;**

(b) **Ensure that persons with disabilities and their representative organizations are fully involved and meaningfully consulted on the development of any accessibility plan;**

(c) **Step up measures to enforce the National Building Regulations and Building Standards Act, monitor progress and reinforce sanctions for lack of compliance with accessibility standards in public and private sector buildings.**

Right to life (art. 10)

18. The Committee is concerned about extreme forms of violence against persons with disabilities, especially persons with albinism and children with psychosocial or intellectual disabilities, including kidnappings, killings and attacks for witchcraft practices, and the absence of measures to prevent these crimes, protect victims and prosecute and convict the perpetrators.

19. **The Committee strongly recommends that the State party:**

(a) **Take all necessary measures to prevent the killings of persons with disabilities, particularly persons with albinism, and ensure their protection and that**

perpetrators are brought to justice and given sanctions commensurate with the gravity of these crimes;

(b) **Ensure full implementation of the Ekurhuleni declaration on the rights of persons with albinism adopted in 2013 and ensure effective investigations of violations of the rights of persons with albinism.**

Situations of risk and humanitarian emergencies (art. 11)

20. The Committee is concerned about the lack of a national plan for disaster risk reduction to support persons with disabilities in situations of risk and humanitarian emergencies, especially persons with psychosocial or intellectual disabilities and persons who are blind or visually impaired. It is also concerned about the lack of access to information in appropriate formats, including emergency-related information, evacuation systems, transportation and shelters.

21. **The Committee recommends that the State party:**

(a) **Adopt a national plan to ensure the protection of persons with disabilities in situations of risk and humanitarian emergencies and to ensure universal accessibility and inclusion for persons with disabilities at all levels of disaster risk reduction policies and their implementation in line with the Committee's general comment No. 2 and the Sendai Framework for Disaster Risk Reduction 2015–2030;**

(b) **Design and disseminate information in accessible formats to all persons with disabilities, in all of the State party's official languages, about early warning mechanisms in case of risk and humanitarian emergencies.**

Equal recognition before the law (art. 12)

22. The Committee is concerned about:

(a) The current guardianship and mental health laws, which maintain a substitute decision-making regime, and the absence of legislation and supported decision-making mechanisms for persons with disabilities that uphold the autonomy, rights, will and preferences of persons with disabilities in all areas of life;

(b) The lack of data on persons with disabilities under guardianship, disaggregated by age, gender and type of impairment.

23. **Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

(a) **Repeal all legislation that allows for substitute decision-making, and adopt legislation on supported decision-making and measures to strengthen data collection in this respect, disaggregated by age, gender and type of impairment;**

(b) **Provide training, in consultation with representative organizations of persons with disabilities for all stakeholders, including their families and community members, civil servants, judges and social workers, on recognition of the legal capacity of persons with disabilities and on existing good practices in supported decision-making.**

Access to justice (art. 13)

24. The Committee is concerned about:

(a) The barriers, including physical and legislative ones, that prevent the effective participation of all persons with disabilities, especially women and children, persons with psychosocial or intellectual disabilities, and deafblind persons, in accessing the justice system due to lack of procedural accommodations, including accessibility, in the judicial system;

(b) The absence of information about the justice system and its proceedings in accessible formats provided to blind and visually impaired persons (Braille and audio), deaf

persons (sign language interpretation) and persons with psychosocial or intellectual disabilities (Easy Read);

(c) The limited knowledge about the human rights of persons with disabilities within the judicial system and the inadequate number of trained professional and certified sign language interpreters, Braille transcribers and Easy Read producers to convey judicial information to persons with disabilities that require it.

25. **The Committee recommends that the State party, taking into account article 13 of the Convention and target 16.3 of the Sustainable Development Goals:**

(a) **Establish legal safeguards to ensure the participation of persons with disabilities in all legal proceedings on an equal basis with others and ensure that procedural, gender and age-appropriate accommodations based on free choice are provided for persons with disabilities in all judicial settings, police stations and places of detention, including prisons;**

(b) **Adopt measures to ensure that all persons with disabilities have access to justice and information and communication in accessible formats, such as Braille, tactile, Easy Read and sign language;**

(c) **Ensure a systematic training programme for judicial and law enforcement officials, including police and prison officials, on the right of all persons with disabilities to justice, including involving persons with disabilities as judicial officials.**

Liberty and security of the person (art. 14)

26. The Committee notes with concern:

(a) The intention of the Government to revise the Older Persons Act (2006) following the amendment of the Mental Health Care Act (2002) with no indication regarding time frames for these amendments.

(b) The alarming increase in the number of admissions of persons with disabilities in mental health-care institutions, which almost doubled between 2015 and 2017;

(c) The absence of adequate measures to monitor the situation of persons with disabilities in institutions and other places of detention and the lack of training of staff regarding the right of persons with disabilities to reasonable accommodation.

27. **The Committee recommends that the State party:**

(a) **Guided by the Committee's guidelines on the right to liberty and security of persons with disabilities, repeal all legislation that authorizes forced institutionalization and repeal all laws that allow for deprivation of liberty on the basis of impairment;**

(b) **Take effective measures for the deinstitutionalization of persons with disabilities and adopt adequate measures to ensure the rights of persons with disabilities, particularly persons with psychosocial or intellectual disabilities, deprived of their liberty in all mental health facilities;**

(c) **Adopt measures to revise the Older Persons Act and the Mental Health Care Act to strengthen their conformity with the Convention, including providing clear time frames for these amendments;**

(d) **Meaningfully involve persons with disabilities, through their representative organizations, in monitoring all places in which persons with disabilities are deprived of their liberty and provide training to mental health professionals and law enforcement and prison officials on respecting the rights of persons with disabilities in mental health facilities, prisons and detention centres.**

Freedom from torture and cruel, inhuman or degrading treatment or punishment (art. 15)

28. The Committee notes with concern:

(a) The high number of unregulated and unsupervised institutions housing persons with disabilities leading to disasters, such as the Esidimeni tragedy, which resulted in the death of more than 140 persons with psychosocial disabilities;

(b) The lack of concrete measures, including complaint mechanisms, to prevent abuse and cruel, inhuman or degrading treatment or punishment of persons with disabilities, including persons with psychosocial or intellectual disabilities and children with disabilities in home, school and community settings; the lack of accessible community-based services for persons with disabilities, especially women and girls with disabilities who have experienced gender-based violence;

(c) The increasing incidence of corporal punishment of children with disabilities in the State party with insufficient awareness about complaint mechanisms and support services for children with disabilities exposed to these crimes, and lack of disaggregated data on investigations, prosecutions and disciplinary sanctions against the perpetrators of torture and ill-treatment.

29. **The Committee recommends that the State party:**

(a) **Adopt legal provisions and concrete administrative measures to protect persons with disabilities, in particular women and girls with disabilities and persons with psychosocial or intellectual disabilities, from torture and other cruel, inhuman or degrading treatment or punishment, and adopt measures aimed at supporting victims, by providing legal advice, information in accessible formats, counselling and redress, including compensation and rehabilitation;**

(b) **Ensure that perpetrators of these crimes are brought to justice and punished with sanctions commensurate with their gravity, and collect data on investigations, prosecutions and disciplinary sanctions against the perpetrators of abuse and cruel, inhuman or degrading treatment or punishment of persons with disabilities, including children in home, education and community settings;**

(c) **Empower the South African Human Rights Commission as the national independent monitoring mechanism to monitor all institutions and settings in which persons with disabilities are deprived of their liberty, in line with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;**

(d) **Ratify the Optional Protocol to the Convention against Torture and establish a national preventive mechanism with a mandate to monitor institutions and other places of detention.**

Freedom from exploitation, violence and abuse (art. 16)

30. The Committee notes with concern:

(a) The lack of legislation, policies and programmes to protect all persons with disabilities, in particular women and girls with psychosocial or intellectual disabilities and children with disabilities, from all forms of violence and abuse, including corporal punishment, and the lack of accessible and age-friendly information on access to counselling and redress, including compensation and rehabilitation;

(b) The lack of dedicated mechanisms for identifying, investigating and prosecuting instances of exploitation, violence and abuse against persons with disabilities, and a lack of disaggregated data on the related reports, investigations and prosecutions in accordance with article 16 (3).

31. **The Committee recommends that the State party:**

(a) **Adopt and implement legislation, policies and programmes to protect all persons with disabilities, in particular women and girls with psychosocial or**

intellectual disabilities and children with disabilities, from all forms of violence and abuse, including corporal punishment, and expedite the implementation of article 16 (3) of the Convention and the Prevention and Combating of Trafficking in Persons Act (2013);

(b) **Investigate promptly and effectively incidents of violence against persons with disabilities, prosecute suspects and duly sanction perpetrators, provide victims with effective redress, including compensation and rehabilitation, and ensure that child victims have access to child-friendly reporting channels, and physical and psychological rehabilitation and health services, including mental health services;**

(c) **Raise awareness about the 24-hour Gender-based Violence Command Call Centre, which aims to provide support and counselling to persons with disabilities and their families who are exposed to gender-based violence, and ensure its accessibility and the provision of accessible information and victim support services in all parts of the State party, in particular for women and children with disabilities.**

Protecting the integrity of the person (art. 17)

32. The Committee notes with concern:

(a) That forced sterilization and forced abortion on women and girls with disabilities, especially those with psychosocial or intellectual disabilities, occur unabated;

(b) The lack of protection of persons with disabilities, especially those with psychosocial or intellectual disabilities, against the use of drugs to induce menstrual suppression, including the use of experimental or new drugs and treatments without free and informed consent, which is also a condition of admission into some special education schools.

33. **The Committee recommends that the State party:**

(a) **Revise the Sterilization Act (1998) and Choice on Termination of Pregnancy Act (1996), and remove provisions allowing for sterilization and termination of pregnancy under a substitute decision-making regime, and bring them into line with general comment No. 1;**

(b) **Adopt legislative and policy measures to prevent and prohibit forced sterilization and non-consensual abortions, ensuring, without exception, that persons with disabilities, especially women and girls with disabilities, and in particular persons with psychosocial or intellectual disabilities, including those deprived of their legal capacity, enjoy their right to free and informed consent;**

(c) **Abolish the use of drugs to induce menstrual suppression, including the use of experimental or new drugs and treatment as a condition of admission into special education schools, notably schools for learners with intellectual disabilities and autism.**

Living independently and being included in the community (art. 19)

34. The Committee is concerned about the lack of a well-defined national strategic and legislative framework on deinstitutionalization and the absence of independent living community support services that provide for the inclusion of persons with disabilities, particularly for persons with psychosocial or intellectual disabilities. Furthermore, the Committee is deeply concerned that the Gauteng tragedy may discourage the continuation of the deinstitutionalization process in the State party.

35. **The Committee, in line with its general comment No. 5 (2017) on living independently and being included in the community, recommends that the State party:**

(a) **Develop and adopt a national strategic and legislative framework on deinstitutionalization of persons with disabilities, including all the necessary independent living community support services, and ensure that persons with disabilities are effectively included, through their representative organizations, at all stages of the deinstitutionalization process;**

(b) **Step up the efforts aimed at deinstitutionalization;**

(c) **Adopt an action plan at the national, regional and local levels to develop community support services in urban and rural areas, including providing personal assistance, grants and support to families of children with disabilities and parents with disabilities, covering support for assistive devices, guides and sign language interpreters.**

Personal mobility (art. 20)

36. The Committee notes with concern:

(a) The significant and increasing challenges faced by persons with disabilities, particularly those with mobility impairments, and blind and visually impaired persons, in accessing quality and affordable mobility and assistive technologies, live assistance and intermediaries, in accordance with article 20 (b) of the Convention, especially in remote and rural areas;

(b) The lack of orientation and mobility practitioners, as well as teachers, to train persons with motor impairments, and blind and visually impaired persons, particularly in remote and rural areas, on the use of their assistive technologies to enhance their dignity and respect in society.

37. **The Committee recommends that the State party:**

(a) **Adopt measures to facilitate the acquisition of the necessary mobility and assistive technologies, live assistance and intermediaries, particularly for persons with motor impairments, and blind and visually impaired persons, especially in remote and rural areas;**

(b) **Adopt an effective national strategy for the training and retraining of orientation and mobility practitioners and teachers in the use of devices for persons with motor impairments, and blind and visually impaired persons, particularly in remote and rural areas.**

Freedom of expression and opinion, and access to information (art. 21)

38. The Committee is concerned about:

(a) The slow pace in amending the Constitution to reflect the adoption of South African sign language as an official language of deaf persons;

(b) The lack of sufficient teachers trained in sign language, tactile interpreters, Easy Read translators and Braille transcribers, the inaccessibility of websites and the inability of television stations to provide information in accessible formats for persons who are deaf or hard of hearing;

(c) The lack of meaningful consultation with representative organizations of deaf persons in assigning sign language interpreters at important national functions.

39. **The Committee recommends that the State party:**

(a) **Expedite the amendment of the constitution to reflect the adoption of sign language as an official language and conduct effective training for sign language interpreters;**

(b) **Adopt legislative provisions to ensure that information provided to the general public through the mass media is available to persons with disabilities in accessible formats, such as Braille, Easy Read and sign language, and technologies appropriate for different impairments, including by ensuring that websites are accessible and comply with the standards developed by the Web Accessibility Initiative of the World Wide Web Consortium;**

(c) **Make the rights of persons with disabilities an integral part of teacher training courses and ensure that television stations provide news and programmes in accessible formats for all persons with disabilities, including deaf persons.**

Education (art. 24)

40. The Committee notes with concern:

(a) The high number of students with disabilities, including girls with disabilities, those with intellectual disabilities or autism and those who are deaf or hard of hearing, who still remain largely outside the school system, the continuing growth in special education schools as opposed to inclusive education, and the lack of safety in school hostels;

(b) Barriers against students with disabilities to access mainstream schools, including discrimination in admissions to school, long distances, poor transportation, a lack of teachers trained in inclusive education, sign language, Braille and Easy Read, a lack of accessible curricula, and negative societal attitudes against the attendance of children with disabilities at regular and inclusive schools;

(c) The lack of information on budgetary allocations for the promotion of inclusive education, and the absence of systematic data collection, disaggregated by sex and type of impairment, on the number of children with disabilities mainstreamed into regular and inclusive school environments and the enrolment and dropout rates of children with disabilities in both mainstream and special schools;

(d) The absence of effective measures to provide reasonable accommodation in the education system, including the absence of sufficient learning materials, especially in remote and rural areas, and of a reporting mechanism for parents and children with disabilities who are denied access to education or reasonable accommodation to ensure accountability.

41. **The Committee recommends that the State party, in line with general comment No. 4:**

(a) **Adopt, implement and oversee inclusive education as the guiding principle of the education system and develop a comprehensive plan to extend it throughout its territory, in which children can stay in their local schools, not be removed from their families and live in hostels;**

(b) **Intensify efforts at allocating sufficient financial and human resources for reasonable accommodations that will enable children with disabilities, including children with intellectual disabilities or autism and those who are deaf or hard of hearing, to receive inclusive and quality education, including engaging in systematic data collection, disaggregated by sex and type of impairment, on the number of children mainstreamed into regular and inclusive schools and the dropout rates;**

(c) **Establish an effective and permanent programme for training teachers in inclusive education, including learning sign language, Braille and Easy Read skills;**

(d) **Prepare a time-bound plan of action to address the high levels of physical, sexual, verbal and emotional abuse, including bullying, in special schools, together with a monitoring framework, and review the provisions of the Children's Act on child and youth centres to ensure regulated and safe school environments, including school hostels.**

Health (art. 25)

42. The Committee notes with concern:

(a) The challenges faced by persons with disabilities, especially women, girls and young persons with disabilities and persons with psychosocial or intellectual disabilities, in accessing health services as a result of the considerable distances to health centres, the physical, financial and attitudinal barriers and lack of information and health-care services, including with regard to sexual and reproductive health and rights, and abortion;

(b) The lack of information on sexual and reproductive rights in accessible formats for persons with disabilities, including the absence of adequate training for children, teachers and health-care workers on the sexual and reproductive rights of persons with disabilities and the recognition of such rights.

43. **The Committee recommends that the State party be guided by Sustainable Development Goal 3, especially target 3.7, and:**

(a) **Adopt measures to ensure universal coverage of health services for all persons with disabilities — and that such services be accessible, affordable and culturally sensitive — and prevent the denial of health-care services;**

(b) **Take measures to provide all persons with disabilities with information in accessible formats about their sexual and reproductive health and rights;**

(c) **Conduct training to ensure that health-care practitioners are aware of the rights of persons with disabilities under the Convention and have the tools to provide appropriate advice for persons with disabilities, including on sexual and reproductive rights.**

Work and employment (art. 27)

44. The Committee is concerned about:

(a) The very low rate of employment among persons with disabilities, especially women with disabilities — persons with disabilities comprise only 1.2 per cent of the workforce according to the 16th annual report, which is based on data from 2014 and 2015, of the Commission for Employment Equity — and gender-based discrimination in the open labour market;

(b) The lack of measures to provide accessible and adapted workplaces, including the provision of reasonable accommodation, especially for persons with motor impairments;

(c) The lack of protection and compensation afforded to migrant workers who have acquired an impairment as a result of their work;

(d) The absence of statistical data on persons with disabilities currently employed, disaggregated by age, gender, type of impairment and geographical location.

45. **The Committee recommends that the State party:**

(a) **Promote the employment of persons with disabilities in the private and public sectors, including through affirmative action, and the adoption of laws and policies on reasonable accommodation, and provide data on persons with disabilities currently employed in the open labour market, disaggregated by age, gender, type of impairment and geographical location;**

(b) **Adopt a strategy to increase productive and decent work and the employment of persons with disabilities in the public and private sectors, including through mechanisms to ensure that reasonable accommodations are provided and to prevent discrimination against persons with disabilities and their families in the labour market in accordance with article 27 of the Convention and target 8.5 of the Sustainable Development Goals, and thus to ensure that the principle of equal pay for work of equal value applies to persons with disabilities;**

(c) **Adopt effective measures for making the physical environment of workplaces accessible and adapted for persons with disabilities, including reasonable accommodation, especially for persons with motor impairments, and provide training to employers at all levels on respect for the concept of reasonable accommodation;**

(d) **Ensure that the labour law fully and equally protects migrant workers with disabilities, and that such workers who have acquired an impairment as a result of their work receive appropriate treatment, rehabilitation and compensation.**

Adequate standard of living and social protection (art. 28)

46. The Committee notes with concern:

(a) The challenges faced in accessing social grants, resulting in applicants being unable to pay for their daily expenses and for those of their dependants, and discriminatory provision of pensions, which has an adverse impact on women with disabilities;

(b) The absence of a comprehensive national social protection scheme that ensures persons with disabilities and their families have access to an adequate standard of living, including provisions to cover disability-related expenses.

47. **The Committee recommends that the State party:**

(a) **Eliminate the challenges faced in accessing social grants and establish a social protection scheme that is inclusive of all persons with disabilities, aimed at guaranteeing an adequate standard of living, including through compensation schemes in the form of allowances that will enable persons with disabilities to meet disability-related expenses;**

(b) **Pay attention to the links between article 28 of the Convention and target 10.2 of the Sustainable Development Goals, to empower and promote economic inclusion of all persons, irrespective of disability status.**

Participation in cultural life, recreation, leisure and sport (art. 30)

48. The Committee is concerned about the delay in revising the Copyright Act (1978) and ratifying the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

49. **The Committee recommends that the State party expedite action to complete the process of revising the Copyright Act (1978) and ratifying the Marrakesh Treaty.**

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

50. The Committee is concerned about the lack of accurate and comprehensive data on persons with disabilities in all sectors of the State party, and is further concerned about the non-inclusion of disability concerns in the monitoring indicators for the implementation of the Sustainable Development Goals, and the absence of information on statistical data and its dissemination to persons with disabilities in all accessible formats.

51. **The Committee recommends that the State party:**

(a) **Consult meaningfully with persons with disabilities and their representative organizations to create a system for the collection of up-to-date disaggregated appropriate data on persons with disabilities;**

(b) **Pay attention to the links between article 31 of the Convention and target 17.18 of the Sustainable Development Goals to increase significantly the availability of high-quality and reliable data, disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts;**

(c) **Analyse such data in order to enable the State party to formulate and implement policies to give effect to the Convention and ensure that such data is available in Braille, sign language, Easy Read and electronic formats.**

International cooperation (art. 32)

52. The Committee notes with concern that representative organizations of persons with disabilities are not consulted or included in the design and implementation of international cooperation agreements and programmes and that a disability perspective is not sufficiently mainstreamed in the national implementation and monitoring of the 2030 Agenda for Sustainable Development.

53. **The Committee recommends that the State party adopt concrete measures to ensure effective participation, inclusion and consultation of persons with disabilities, through their representative organizations, in international cooperation agreements and programmes, specifically in the monitoring of the 2030 Agenda.**

National implementation and monitoring (art. 33)

54. The Committee is concerned about:

(a) The lack of information about the specific focal points and mechanisms at the regional and local levels to implement the Convention;

(b) The absence of an independent monitoring entity to exercise the powers of an independent mechanism for the protection, promotion and monitoring of the Convention in accordance with the provisions of article 33 (2) of the Convention and the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);

(c) The lack of processes for the meaningful consultation of organizations of persons with disabilities in adopting policies and other matters affecting them, and that their views are often not adequately reflected in the decisions adopted;

(d) The lack of provision of the necessary resources by the Department of Social Development to promote the effective participation of organizations of persons with disabilities and the cumbersome and expensive accreditation procedures, especially in rural and remote areas.

55. **The Committee recommends that the State party:**

(a) **Establish a mechanism and a system of focal points, including adopting measures to strengthen the efficiency of the focal points at the national, regional and local levels, to implement the Convention;**

(b) **Expedite the designation of the South African Human Rights Commission as the independent monitoring mechanism and allocate sufficient financial resources to enable it fully to execute its mandate;**

(c) **Establish and strengthen mechanisms for the meaningful and effective consultation and participation of organizations of persons with disabilities, including those that represent women and children and older persons with disabilities, persons with psychosocial or intellectual disabilities and persons with disabilities in rural areas, when adopting policies and on other matters that concern them, and ensure that accreditation procedures are accessible and simplified at all levels of the national disability rights machinery.**

Cooperation and technical assistance

56. Under article 37 of the Convention, the Committee can provide technical guidance to the State party on any queries addressed to the experts via the secretariat. The State party can also seek technical assistance from United Nations specialized agencies with offices in the country or the region.

IV. Follow-up

Dissemination of information

57. **The Committee requests the State party to provide information, as a matter of priority, on the measures taken to implement the Committee's recommendations contained in paragraphs 15 (b) (children with disabilities) and 42 (b) (education).**

58. **The Committee requests the State party to implement the recommendations contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and parliament, officials in relevant ministries, the judiciary and members of relevant professional groups, such as education, medical and legal professionals, as well as to local authorities, the private sector and the media, using modern social communication strategies.**

59. **The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.**

60. **The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and organizations of persons with disabilities, and to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, and to make them available on the government website on human rights.**

Next periodic report

61. **The Committee requests the State party to submit its second, third and fourth reports by 3 June 2022 and to include in them information on the implementation of the recommendations made in the present concluding observations. The Committee also requests the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the report of a State party. The replies of a State party to such a list of issues constitute its report.**